

modified, or whether the order removing such party from office or prohibiting the party from further participation in any manner in the conduct of the affairs of the regulated entity will be rescinded or otherwise modified.

(vi) *Ultimate question.* In deciding on any request for relief from a notice of suspension or prohibition, the hearing officer shall not consider the ultimate question of guilt or innocence with respect to the outstanding criminal charge(s). In deciding on a request for relief from a removal order, the hearing officer shall not consider challenges to or efforts to impeach the validity of the conviction. In either case, the hearing officer may consider facts that show the nature of the events on which the conviction or charges were based.

(4) *Record.* If warranted under the circumstances of the matter, the hearing officer may require that a transcript of the proceedings be prepared at the expense of the requesting party. The hearing officer may order the record be kept open for a reasonable time following the hearing, not to exceed five business days, to permit the filing of additional pertinent submissions for the record. Thereafter, no further submissions are to be admitted to the record, absent good cause shown.

§ 1209.103 Recommended and final decisions.

(a) *Recommended decision.*—(1) *Written recommended decision of the hearing officer.* Not later than 20 days following the close of the hearing (or if the requestor waived a hearing, from the deadline for submission of the written materials), the hearing officer will serve a copy of the recommended decision on the parties to the proceeding. The recommended decision must include a summary of the findings, the parties' respective arguments, and support for the determination.

(2) *Five-day comment period.* Not later than five business days after receipt of the recommended decision, the parties shall submit written comments in response to the recommended decision, if any, to the hearing officer. The hearing officer shall not grant any extension of the stated time for responses to a recommended decision.

(3) *Recommended decision to be transmitted to the Director.* The hearing officer shall promptly forward the recommended decision, and written comments, if any, and the record to the Director for final determination.

(b) *Decision of the Director.* Within 60 days of the date of the hearing, or if the requestor waived a hearing the date fixed for the hearing, the Director will notify the entity-affiliated party in writing by registered mail of the disposition of his or her request for relief from the notice of suspension or prohibition or the order of removal or prohibition. The decision will state whether the suspension or prohibition will be continued, terminated, or otherwise modified, or whether the order removing such party from any participation in the affairs of the regulated entity will be rescinded or otherwise modified. The decision will contain a brief statement of the basis for an adverse determination. The Director's decision is a final and non-appealable order.

(c) *Effect of notice or order.* A removal or prohibition by order shall remain in effect until terminated by the Director. A suspension or prohibition by notice remains in effect until the criminal charge is disposed of or until terminated by the Director.

(d) *Reconsideration.* A suspended or removed entity-affiliated party subsequently may petition the Director to reconsider the final decision any time after the expiration of a 12-month period from the date of the decision, but no such request may be made within 12 months of a previous petition for reconsideration. An entity-affiliated party must submit a petition for reconsideration in writing; the petition shall state the specific grounds for relief from the notice of suspension or order or removal and be supported by a memorandum and any other documentation materially relevant to the request for reconsideration. No hearing will be held on a petition for reconsideration, and the Director will inform the requestor of the disposition of the reconsideration request in a timely manner. A decision on a request for reconsideration shall not constitute an appealable order.